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July 17, 2002

Chief of Records  
Office of Foreign Assets Control  
Department of the Treasury  
1500 Pennsylvania Avenue  
N.W., Washington, D.C. 20220  
Attn: Request for Comments

Ladies and Gentlemen:

This comment letter is submitted on behalf of FleetBoston Financial ("Fleet") in response to the Office of Foreign Assets Control's ("OFAC") proposed rule concerning the disclosure of certain civil penalty information (the "Proposed Rule"),

Fleet is the seventh-largest financial holding company in the United States. A \$191 billion diversified financial Services Company, it offers a comprehensive array of innovative financial solutions to 20 million customers in more than 20 countries and territories. Among the company's key lines of business are: retail banking, with over 1,500 branches and more than 3,700 ATMs in the Northeast; commercial banking, including capital markets and commercial finance; investment services, including discount brokerage; and full-service banking through more than 250 offices in Latin America. Fleet is headquartered in Boston and is listed on the New York Stock Exchange (NYSE: FBF) and the Boston Stock Exchange (BSE: FBF).

Fleet appreciates the opportunity to comment on the Proposed Rule. In order for you to better assess the potential impact of the proposal, Fleet submits the following comments:

I. Achievement of Objective for Public

Fleet believes the Proposed Rule will not achieve OFAC's stated objective to "increase awareness of its enforcement activities and encourage compliance with its economic sanction programs". Fleet agrees with and understands the desire to increase awareness of OFAC's economic sanction program, especially amongst the trade, engineering, and other non-financial institution industries. However, Fleet believes that the Proposed Rule will have a negative effect on the highly regulated and often examined financial institution, broker/dealer and security industries. Financial institutions are regularly examined by their respective supervisory agencies for compliance with OFAC regulations and are subjected to disciplinary and enforcement action deemed appropriate by their regulator for compliance failures and violations in addition to any monetary penalties imposed by OFAC. Therefore, financial institutions are already acutely aware of OFAC's

enforcement activities and have programs in place to comply with its economic sanction requirements. To that end, Fleet continuously strives to achieve and set industry best practices in complying with OFAC regulations. One critical component is Fleet's self-monitoring processes, which it has developed and implemented to assist it in identifying potential gaps in its processes. As a practice, Fleet will share this information directly with OFAC or its regulatory agencies. While Fleet will continue this practice, it believes the Proposed Rule may deter others from maintaining similar compliance self assessment practices, knowing that their self-identified deficiencies or errors may be publicly disclosed.

The Freedom of Information Act ("FOIA") is an effective tool that allows third parties to ascertain information about enforcement actions taken by OFAC. For this reason, Fleet does not believe that FOIA needs to be supplemented by the Proposed Rule,

## II. The Quarterly Publication of Civil Penalties

The Proposed Rule is intended to "make public...civil penalties information on...not less frequently than quarterly." We believe that the frequent publication of "an imposition of a civil monetary penalty or an informal settlement" may be punitive to financial institutions. The proposal to simply publish the financial institution's name, the sanctions program involved, a description of the violation, and the amount of the penalty imposed, could lead one to draw incorrect conclusions regarding the adequacy of the control environment if critical supporting information, as described below, is lacking.

On its face, the Proposed Rule does not permit the financial institution to provide information describing the context in which the error or exception occurred. On occasion, a stopped transaction may improperly be released due to human error. In accordance with the Proposed Rule, this context will not be disclosed to the general public. In addition, the proposal weighs more heavily on larger institutions. For example, Fleet processes an approximately 35,000 wire transfers per day. On average, our automated OFAC interdiction software will stop 1,300 of those, all of which then requires human intervention (i.e., research and reevaluation). Therefore an institution with large transaction volumes is unfairly matched with those of much smaller transaction volumes. We are also concerned that publication of such information without the supporting information may erode consumer confidence in the financial institution and negatively impact a financial institution's reputation by creating an inaccurate perception that it lacks adequate management oversight and OFAC controls. Furthermore, this information may be used by Specially Designated Nationals or other unsavory individuals to target financial institutions who appear vulnerable due to perceived lax or inadequate OFAC controls.

Having said that, Fleet does support a policy of disclosure, with respect to the Proposed Rule, in cases where entities or financial institutions display gross

negligence or blatant systemic breakdowns in OFAC risk management controls. This approach has proven effective for the Department of Justice and other regulatory agencies when issuing consent decrees or formal sanctions.

III. OFAC Publishing of Individuals names

Regarding the disclosures of individual names, we do not agree that OFAC should disclose individual names. The proposed rule does not identify which individual it is referring to (bank employee, beneficiary, remitter, etc.) nor does it set criteria for confirming the individual's true identity.

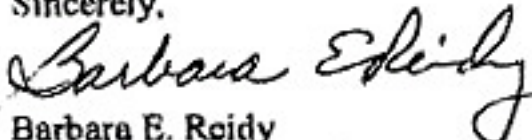
Assuming OFAC intends to publicly disclose the name of the remitter or beneficiary involved in the transaction, we believe this would undermine a customer's privacy and confidentiality rights and increase a financial institution's exposure to litigation based on those rights as well as negatively impact the institution's reputation. Furthermore, we believe those individuals named in the disclosure could be subjected to personal security risks.

IV. Unsolicited Comments for Safe Harbor

We ask that OFAC amend its regulations to provide financial institutions with safe harbor protection in instances where employees mistakenly block transactions and/or freeze assets when attempting, in good faith, to comply with complex OFAC requirements. OFAC should consider providing safe harbor provisions similar to those provided by FinCEN when reporting Suspicious Activity. This has become increasingly important in the post 9/11 environment.

Once again, we appreciate this opportunity to comment on the important issues raised in the proposal. If you have any questions concerning these comments, or if we can otherwise be of assistance in connection with this matter, please do not hesitate to contact Michael Hansen at (617) 434-1923, Karla Jarvis at (617) 434-3285 or me at (617) 434-1670.

Sincerely,



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